

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Criminal Case No. 11-20752

Darren Terry,

Sean F. Cox

United States District Court Judge

Defendant.

ORDER REGARDING ECF NO. 780

In this criminal action, Defendant Darren Terry (“Terry”) pleaded guilty to one count of conspiracy to distribute and to possess with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) and § 846. (ECF No. 379). On September 18, 2013, the Court sentenced Terry to 225 months’ imprisonment. (ECF No. 452). Defendant is currently serving that sentence.

Terry filed a direct appeal but the United States Court of Appeals for the Sixth Circuit affirmed Terry’s conviction. *United States v. Terry*, 613 Fed. App’x 540 (6th Cir. 2015).

Terry filed a habeas petition under 28 U.S.C. § 2255, which this Court denied in an Opinion and Order issued on July 27, 2017. (ECF No. 657). This Court also declined to issue a certificate of appealability. Terry did not appeal the Court’s decision on his § 2255 petition and the time permitted for doing so has passed.

Since Terry’s conviction became final, he has made other attempts to reduce his sentence. In 2018, he sought a reduction because he believed that his Guidelines Range had been lowered after his conviction. (ECF No. 670). The Court denied this motion because Terry was sentenced as a career offender and, therefore, his Range did not actually change. (ECF No. 676). In 2019,

he sought a reduction under *United States v. Havis*, 927 F.3d 382 (6th Cir. 2019) (en banc), arguing that one of his prior convictions no longer counted towards his career offender status. (ECF No. 691). The Court construed this motion as a second or successive § 2255 petition and transferred it to the Sixth Circuit. (ECF No. 705). The Sixth Circuit later dismissed Terry's motion for want of prosecution in November of 2019. (ECF No. 707).

On April 30, 2020, Terry filed a Motion for Compassionate Release (ECF No. 711), based upon concerns about the ongoing novel coronavirus pandemic ("COVID-19"). That motion asked the Court to allow Terry to serve the remainder of his sentence at home because he is concerned that he could contract the virus, and that he may be vulnerable to severe illness if he were to contract it. After full briefing by the parties, this Court ultimately denied that motion in an Opinion and Order issued on August 10, 2020. This Court also denied Terry's motion seeking reconsideration of that ruling.

Terry appealed this Court's denial of his motion for compassionate release. In an Order issued on April 5, 2021, the Sixth Circuit dismissed that appeal as untimely. (*See* ECF No. 758).

Thereafter, on May 3, 2021, Terry filed another Motion for Compassionate Release based upon concerns about COVID-19. (*See* ECF No. 760). As that motion did not raise any new or changed circumstances, the Court construed the motion as a motion for reconsideration and denied it in an Opinion and Order issued on June 2, 2021. (ECF No. 763).

Terry appealed this Court's rulings as to his requests for compassionate release. In an unpublished opinion issued on October 12, 2021, the United States Court of Appeals for the Sixth Circuit affirmed this Court's rulings. (*See* ECF No. 767).

Undeterred, Terry filed yet another motion seeking compassionate release on January 24,

2022. (ECF No. 770). The Government again opposed the motion on the merits. This Court denied this additional motion in an Order issued on March 14, 2022. (ECF No. 775).

On June 30, 2022, Terry filed a motion asking this Court “to expedite his claim of reduction of sentenced under 3582(c) of the First Step Act. (ECF No. 780). As the Government notes in its response, Terry does not have a pending motion before this Court and this Court has repeated denied Terry’s motions seeking compassionate release. As such, the Court **DENIES** this motion as moot.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: August 22, 2022